

HAMPTON PLANNING BOARD – MINUTES  
OCTOBER 19, 2005 – 7:00 PM

**PRESENT:** Tracy Emerick, Chairman  
Tom Higgins, Vice-Chairman  
Fran McMahon, Clerk  
Robert Viviano  
Tom Gillick  
Keith Lessard  
Jim Workman, Alternate Selectman Member  
Jamie Steffen, Town Planner

**ABSENT:** Cliff Pratt, Selectman Member

Chairman Emerick began the meeting at 7:00 PM by introducing the Board members. Mr. Workman led the Pledge of Allegiance to the flag.

**I. WITHDRAWALS AND POSTPONEMENTS**

- 1) Leo Pacheco SUB  
3-lot Subdivision at  
16-23 Fielding Lane  
Map 194 Lot 10-1  
Waiver from Subdivision Regulation VII.C (Storm Drainage)  
Owner of Record: Leo Pacheco

Chairman Emerick announced that this applicant has requested a continuance to the December 21<sup>st</sup> meeting of the Board.

**MOVED** by Mr. Gillick to continue the Leo Pacheco Subdivision application, with waiver, to the December 21<sup>st</sup> meeting of the Planning Board.

**SECOND** by Mr. Lessard

**VOTE: 7-0-0 -**

**MOTION PASSED**

- 2) Dean Koravos SP5-05  
Special Permit to Impact Wetlands Conservation District at  
1048 Ocean Boulevard  
Map 116 Lot 4  
Owner of Record: Dean Koravos  
*Continued from September 7<sup>th</sup>*

Chairman Emerick announced that this applicant has requested to be withdrawn. A new application will be submitted.

- 3) Elaine & Fred Ayotte SP5-02  
Site Plan Review at  
465 Ocean Boulevard  
Map 266 Lot 31

Owner of Record: Elaine & Fred Ayotte  
*Continued from September 7<sup>th</sup>*

Chairman Emerick announced that this applicant has requested continuance to the November 2nd meeting of the Planning Board.

Attorney William Phipps, representing abutters to this property, presented a letter to the Board on behalf of the abutters.

**MOVED** by Mr. Lessard to grant applicant's request to be continued to the November 16<sup>th</sup> meeting of the Planning Board.

**SECOND** by Mr. McMahon

**VOTE: 7-0-0 -**

**MOTION PASSED**

- 4) Brian C Hayes  
Site Plan Review at  
486 Winnacunnet Road  
Map 222 Lot 82  
Owner of Record: Brian C Hayes  
**Continued from September 21<sup>st</sup>**

**SITE**

Chairman Emerick announced that there is a letter from Attorney Ells requesting continuance of this application to November 2<sup>nd</sup>.

**MOVED** by Mr. Lessard to continue the above referenced application to the Planning Board meeting of November 2<sup>nd</sup>.

There was no second to the motion.

**MOVED** by Mr. Lessard to continue the above referenced application to the Planning Board meeting of November 16<sup>th</sup>.

**SECOND** by Mr. Gillick

**VOTE: 7-0-0 -**

**MOTION PASSED**

## **II. NEW PUBLIC HEARINGS**

- 5) H Art Turner Jr. & Lois Alexander CC5-05  
Condominium Conversion at  
368 + 370 High Street  
Map 165 Lots 5 and 5 A  
Waivers from Sub Reg Section V.E (Detailed Plan) and Section VII.C (Storm Drainage)  
Owner of Record: H. Art Turner Jr. and Lois Alexander
- a) H Art Turner Jr. & Lois Alexander  
Minor Lot Line Adjustment at  
370 High Street

Map 165 Lots 5 and 5 A  
Owner of Record: H. Art Turner Jr. and Lois Alexander

Ernest Cote, Surveyor, presented this application on behalf of the applicants. He presented a letter to the Board giving him the authority to represent the applicants.

Mr. Cote first described the lot line adjustment. The purpose is to give yard space to both properties. This will allow both buildings to have side yards

BOARD  
No comment

PUBLIC  
No comment

BOARD

**MOVED** by Mr. Viviano to approve the lot line adjustment with the following conditions:

- Certificate of Monumentation shall be submitted to the Planning Department.
- Final plans shall be submitted to the Planning Department.
- A recordable Mylar and appropriate recording fees will be submitted to the Planning Department.

**SECOND** by Mr. Gillick

**VOTE: 7-0-0 -**

**MOTION PASSED**

Mr. Cote then addressed the condominium conversion. He indicated that the building was currently a 2-family. It would remain so with a change in the form of ownership. He then described the parking arrangements.

BOARD

Mr. Higgins asked if the Board was addressing just 370 High Street. Yes, that is correct.

PUBLIC  
No comment

BOARD

**MOVED** by Mr. Gillick to grant the condominium conversion, with the requested waivers, and subject to the following conditions:

- Each unit shall obtain a separate occupancy permit from the Building Department prior to any unit being sold.
- The parking for each unit shall be marked on-site.
- A recordable Mylar and appropriate recording fees will be submitted to the Planning Department

**SECOND** by Mr. Viviano

**VOTE (waivers): 7-0-0-**  
**VOTE (conversion): 7-0-0 -**

**MOTION PASSED**  
**MOTION PASSED**

- 6) Scott and Joan Eagleson CC5-06  
Condominium Conversion at  
7 P Street  
Map 296 Lot 47  
Waivers from Section VE (Detailed Plan), and Section VII D (Drainage)  
Owner of Record: Scott and Joan Eagleson

Craig Salomon, Attorney, presented this application. He referred to revised plans, indicating changes in the parking. He was accompanied by Mr. Scott Eagleson and Mr. Ernest Cote.

Mr. Salomon then described the parking arrangement. He stated that the plans would specify the limited common area for parking.

#### BOARD

Mr. Lessard asked about the 10-foot wide driveway on the East side of the property. There are window wells in the front building. If a fence were to be installed by the neighbor, there may be difficulty in using this driveway.

Mr. Emerick read an abutter letter opposed to the conversion because of the inadequacy of parking.

Mr. Higgins asked how parking in the entrance way would be eliminated. Mr. Salomon said a sign might be needed.

Mr. Higgins asked if the basement apartment currently had a Certificate of Occupancy. Mr. Eagleson said it did have a year-round CO.

Mr. McMahon asked if the existing driveway was consistent with the infrastructure project plans. Mr. Eagleson said they have been allowed 2 curb cuts.

#### PUBLIC

No comment

#### BOARD

Mr. Higgins suggested that the plan be amended to show the window wells, since these will be a problem for entering and exiting vehicles in the driveway.

In response to an inquiry from Mr. Gillick, Mr. Steffen stated that the parking nonconformities were indicated on the plan.

Mr. Gillick asked the Planner if this application and our treatment of it is consistent with what the Board has done in the past.

Mr. Viviano asked if the Board has the responsibility to address the parking inadequacies.

Mr. Salomon said the parking spaces are 8 ½ feet wide. Regulation requires 9 feet. He felt that passengers would be discharged before entering the driveway.

Mr. Higgins asked how the driveways would be plowed. Plowing and snow removal were discussed. Mr. Eagleson said there is a back yard where snow can be stored.

Mr. Gillick stated that the Board has before it an application to change ownership only. He said he believed the Board's responsibility is to warn prospective buyers through the decision letter, notes to the site plan, and by incorporating the parking deficiencies into the condominium documents.

Mr. Lessard said he felt there should be an additional condition that the window wells be shown on the site plan.

Mr. Higgins said he would not like to see the site paved. He asked if the driveway was going to remain permeable. Yes, it will remain permeable.

**MOVED** by Mr. Gillick to grant the requested waivers

**SECOND** by Mr. Viviano

**VOTE: 7-0-0 -**

**MOTION PASSED**

**MOVED** by Mr. Gillick to approve the condominium conversion with the following conditions:

- The Condominium Documents shall reflect parking inadequacies
- Driveways will remain permeable.
- All conditions in the Planners memo of September 29<sup>th</sup> shall apply
- Window wells are to be shown on the plans
- Commas to be corrected on notes on plans

**SECOND** by Mr. Workman

**VOTE: 6-1-0 -**

**MOTION PASSED**

- 7) Janet Reynolds, Trustee of Fatima Realty Trust SITE5-05  
Amended Site Plan Review at  
377 Ocean Boulevard Map 265 Lot 20  
Owner of Record: Janet Reynolds, Trustee of Fatima Realty Trust

Mr. Stephen Ells, Attorney, and Ms. Jean Boudreau, Principal of the Realty Trust, and Robert Martel, Architect, presented this application.

Mr. Ells described the changes to the plans since the previous approval. The previous building was approved with 78 feet. The current plan is an 81 feet elevation. He indicated that the footprint of the building will not change. He indicated that the site plan is unchanged except for a note with respect to the maximum height.

## BOARD

Chairman Emerick said he had discussed the application with Town Counsel. Counsel's recommendation was that in order to close the loop for a lender, it was in the applicant's best interest to come back to the Board

Mr. Gillick asked about how current certain notes were on the plan. Mr. Ells indicated that there were notes that are not current.

Mr. Higgins indicated that the pool was previously on the 6<sup>th</sup> floor. On the current plan it appears to be higher.

Mr. Martel stated that the base of the pool sits on the 6<sup>th</sup> floor. Elevators and stairs take people to the top of the pool.

Mr. Higgins stated site pictures are different from those presented to Board as the approved rendering. Mr. Martel said they were still working on the building design but that it would most likely look like stone on the first floor and look like brick on the floors above.

Mr. Gillick asked if we were dealing with an amended site plan review. This is correct.

Mr. Viviano asked for clarification of the need for the additional height.

Mr. Martel described the need for 1 and ½ feet of additional space between each floor.

Mr. Ells advised that the average building height is going from 56 to 64 feet.

Mr. Lessard asked if vehicle headlights would shine into windows of units on first and second floors as people enter the parking area. Mr. Martel explained that what looked like windows on the first floor are actually a façade.

## PUBLIC

No comment

**BOARD**

Chairman Emerick read two letters into the record in favor of the project.

**MOVED** by Mr. Gillick to approve the amended Site Plan Review, subject to the conditions in the planner's memo of 10/3 and a letter from the Fire Department indicating that they are in conformity with the plan.

Chairman Emerick said he spoke with the Fire Department. They indicated that fires above a 3rd floor are fought from the inside and the additional height would not make a difference. Mr. Gillick would like this in writing.

**SECOND** by Mr. Higgins

**VOTE: 7-0-0 -**

**MOTION PASSED**

8)	Drakes Appleton Corporation Site Plan Review at 428 Lafayette Road Map 160 Lot 17 Owner of Record: Oddfellows Property Holdings, LLC	SITE5-04
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Mr. Lessard recused himself from this application.

Michael Donahue, Attorney, and Tom Nigrelli, Principal, presented this application.

Mr. Donahue indicated that Schooner Landing LLC has acquired the property and is the current owner. Schooner Landing LLC is affiliated with Drakes Appleton, and Mr. Nigrelli is a principal of that company.

Mr. Donahue stated they have been to the Zoning Board of Adjustment and secured all necessary variances. He said they received a variance for parking where 43 spaces are required and 41 are planned. He indicated that the parking spaces would be conveyed as part of the condominium form of ownership.

**BOARD**

Mr. Gillick asked for confirmation that there was no retail space on the first floor. Mr. Nigrelli indicated that there would be office space, a lobby area, and mechanical rooms on the first floor. He indicated that the main entrance is in the rear of the building. The footprint is 3500 square feet. It was previously approved at 4200 square feet. Office space requires 1 parking space per 200 square feet, where retail requires 1 parking space per 300 square feet.

Mr. Gillick said parking and access by trucks was discussed at length under the previous proposal. He said if space were to change in the future, a use change would be required, so the Planning Board is not giving up control of this.

Mr. Nigrelli said an office/residential mix is the proposed use of the property. He said if he sold in the future, new owners would have to come before Board for a change of use.

Mr. Donahue stated the number of spaces on site is 28.

Mr. Higgins asked how twelve 1-bedroom condominiums would find 13 parking spaces adequate.

Mr. Nigrelli described the parking scenario as compared to the previous rooming house proposal for this space. Mr. Donahue discussed shared parking, in general, in the context of a mixed-use application.

Mr. Higgins asked about the arrangement for the six on-street parking spaces. Mr. Nigrelli stated the property owns the sidewalk and half of the 6 diagonal parking spaces. He plans to grant the Town a perpetual easement for the parking spaces and the sidewalk.

Mr. Donahue indicated that in the end the 6 spaces would be under the control of the Board of Selectmen.

Mr. Higgins asked if there were any recreation space. There is none.

Mr. Gillick asked where the variances were on the plans. They are on sheet C2

Mr. Nigrelli described the carport to be constructed.

Mr. McMahon asked for confirmation that the Board of Selectmen would have control of the 6 parking spaces on the street. Mr. Nigrelli clarified that he would be granting an easement to the town for public use of the sidewalk and the 6 parking spaces but it would continue to be private property.

Dirk Grotenhuis, Kimball Chase Consulting Engineers, presented the changes since conditional approval. The footprint has been reduced slightly, allowing for additional green space. Parking in the rear has also been reconfigured. The loading area has also been eliminated, since it is not needed for office use.

PUBLIC

No Comment

BOARD

Mr. Gillick said this would be an asset to downtown Hampton.



**MOVED** by Mr. Gillick to approve the site plan review at 428 Lafayette Road, with conditions as stated in the Planner's October 17th memo. Condition #6, regarding the easement to the Town will be subject to town counsel review. Also, parking spaces be marked.

Mr. Donahue indicated that he wished to point out something on the Planner's Condition #4. The applicant takes issue with "issuance of the Certificate of Occupancy for the first unit" as the Board's definition of "active and substantial".

A lengthy discussion of "active and substantial" took place.

It was agreed that Condition #4 would reflect a definition of "active & substantial" as a "Certificate of Occupancy issued within 2 years".

**SECOND** by Mr. Viviano

**VOTE: 7-0-0 -**

**MOTION PASSED**

### **III. CONTINUED PUBLIC HEARINGS**

- 9) Drakes Appleton Corporation SITE5-03  
Amended Site Plan Review to construct a **48 Unit Condo** with associated parking, utilities, sewer, water, & with 2 options for storm water control plans at 180 Drakeside Road (rear)  
Map 172, Lot 12-1  
Waiver requested: Site Plan Regulations Section VII.D.2. (Match peak runoff events)  
Owner of record: Morgan Ryan Realty Trust
- a) Drakes Appleton Corporation  
Special Permit to work within the Wetlands District, associated with **48 unit Condominium** at 180 Drakeside Road (rear)  
Map 172, Lot 12-1  
Owner of record: Morgan Ryan Realty Trust
- Continued from September 7<sup>th</sup>*

Mr. Lessard and Mr. Workman recused themselves from these applications.

Michael Donahue, Attorney, Tom Nigrelli, Principal, and Joe Coronati, Engineer, presented these applications. Mr. Donahue said they were back before the Board with this 48-unit proposal. He said presentation tonight is without prejudice to the pending court case. He said this was a good faith effort to address safety concerns with respect to the project.

Mr. Coronati then distributed new plans depicting the sidewalk 4 feet off the edge of pavement as requested by the Department of public works. Mr. Coronati said the right-of-way is not parallel to the edge of pavement. He made the sidewalk 4 feet from the edge of

pavement because of this. The sidewalk will be 5 feet wide and concrete. The sidewalk had been up against the edge of pavement on the previous plan.

## BOARD

Mr. McMahon asked about the storm water runoff with this new design. Mr. Coronati said that Mr. Hangen had asked for leaching catch basins. Mr. Nigrelli said the soils in that area are not conducive to leaching basins.

Mr. Gillick asked the Planner if the Board had all departmental reviews back. The Planner said it had. There are no concerns from the Police Department. The Fire Department had a comment on the sprinkler system. The Department of Public Works' comments have previously been discussed. The Conservation Commission had no changes from their September memo.

Mr. Nigrelli asked when the school impact fee is required. This will be due at the time of application for a building permit.

## PUBLIC

Kreon Cyros, 100 Hampton Meadows, said he was speaking to express favor over one aspect of plan. He is concerned that the 100 feet of sidewalk will not be plowed, salted or sanded in the winter. He does not believe 100 feet of sidewalk will do any good to improve safety. Eliminating the green screen by putting sidewalk in will create more of a safety hazard. He asked that the existing screening remain.

## BOARD

Mr. Gillick commented that a condition of approval could be that the condominium association will be responsible for plowing the sidewalk.

Mr. Steffen then reviewed his comments on the application.

Mr. Donahue said they would like the opportunity to present alternative wording for "active and substantial" with respect to this application. The current wording would require that a 24-unit building be built in one year. An alternative definition is to require the sidewalk, the trails, and the easement to be in place and for construction to have started. A discussion of a mutually acceptable definition of "active and substantial" took place.

Mr. McMahon asked Mr. Nigrelli to refresh the Board's memory on the amount of land being put under conservation easement. Mr. Nigrelli described the 22 acres going into conservation easement. 85% of the property is going into the conservation easement. He showed the conservations easements for Hampton Meadows and Appleton Oaks, which are contiguous to this new parcel. He said there is now over 60 acres that is conserved.

Chairman Emerick said the Department of Public Works memo needs to be revised.

Chairman Emerick reiterated Mr. Cyros' point that, to the extent possible, trees should be saved. Mr. Coronati said that the trees on the private property would be saved, except for the driveway access. Mr. Coronati said that Mr. Hangen had recommended all trees in the right-of-way be removed.

The condominium association will be responsible for keeping the field a field and for the designation and mowing of the trail and cleaning of the sidewalk.

Mr. Donahue said that once a sidewalk is connected to this partial sidewalk, the municipality should take control.

**MOVED** by Mr. Gillick to grant the requested waivers.

**SECOND** by Mr. Viviano

**VOTE: 5-0-0**

**MOTION PASSED**

**MOVED** by Mr. Gillick to grant the special permit.

**SECOND** by Mr. Higgins

**VOTE: 5-0-0 -**

**MOTION PASSED**

**MOVED** by Mr. Gillick to grant the amended site plan review with the conditions outlined in the Planner's memo of October 14, as amended tonight to add that the sidewalks and parking lot are to be maintained by the condominium association.

**SECOND** by Mr. Higgins

**VOTE: 5-0-0 -**

**MOTION PASSED**

#### **IV. CONSIDERATION OF MINUTES of October 5, 2005**

Page 4 – 3<sup>rd</sup> paragraph – Add “She stated she didn’t know she needed to come before the Board to within the Wetland Buffer Mr. Higgins asked why she failed to appear when scheduled last month. She stated she had tickets to a Red Sox game that night.”

Page 14 – Consideration of September 21<sup>st</sup> minutes – change “present” to “co-applicants”

**MOVED** by Mr. Higgins to accept the minutes as amended.

**SECOND** by Mr. Viviano

**VOTE: 5-0-1 -**

**MOTION PASSED**

#### **V. CORRESPONDENCE**

#### **VI. OTHER BUSINESS**

CIP Meeting – Mr. Gillick announced that the Subcommittee of the Planning Board will present its report to the Planning Board for adoption or rejection.

Legal review of condominium documents – Town Counsel opined that it was not necessary to amend Planning Board regulations to charge for legal review of lengthy

condominium documents. For all new applications after January 1, 2006, there will be a \$90 per hour charge for review of condominium documents.

**MOVED** by Mr. Gillick to adopt the recommended charge effective with all new applications after January 1, 2006

**SECOND** by Mr. Higgins

**VOTE:** 6-0-0

Recording fees - The Planner wishes to increase the charge for recording fees by \$35 to cover the cost of time and travel.

**MOVED** by Mr. Gillick to approve the Planner's recommendation.

**SECOND** by Mr. Viviano

**VOTE:** 6-0-0 -

**MOTION PASSED**

**MOVED** by Mr. Gillick to adjourn

**SECOND** by Mr. Viviano

**VOTE:** 6-0-0

**MOTION PASSED**

Meeting adjourned at 9:20 PM.

Respectfully Submitted,  
Barbara Renaud  
Planning Board Secretary